

**U.S. District Court  
District of South Carolina (Charleston)  
CIVIL DOCKET FOR CASE #: 2:21-cv-00789-DCN**

Fitzhenry v. Vivint Inc et al  
Assigned to: Honorable David C Norton  
Cause: 47:227 Restrictions of Use of Telephone Equipment

Date Filed: 03/19/2021  
Date Terminated: 08/20/2021  
Jury Demand: Plaintiff  
Nature of Suit: 485 Telephone Consumer Protection Act (TCPA)  
Jurisdiction: Federal Question

**Plaintiff**

**Mark Fitzhenry**

*individually and on behalf of a class of all persons and entities similarly situated*

represented by **Anthony Ilo Paronich**  
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V.

**Defendant**

**Vivint Inc**

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**Defendant**

**DSI Distributing Inc**  
*TERMINATED: 05/13/2021*  
*doing business as*  
DSI Systems  
*TERMINATED: 05/13/2021*

**Defendant**

**John Doe Corporation**

**Defendant**

**RS&I, Inc.**

Date Filed	#	Docket Text
03/19/2021	1	COMPLAINT against All Defendants ( Filing fee \$ 402 receipt number 0420-9719578.), filed by Mark Fitzhenry. Service due by 6/17/2021(jbry, ) (Entered: 03/19/2021)

03/19/2021	<u>i</u> 2	Local Rule 26.01 Answers to Interrogatories by Mark Fitzhenry.(jbry, ) (Entered: 03/19/2021)
03/19/2021	<u>i</u> 3	Summons Issued as to DSI Distributing Inc, Vivint Inc. (jbry, ) (Entered: 03/19/2021)
03/22/2021	<u>i</u> 5	SUMMONS Returned Executed by Mark Fitzhenry. DSI Distributing Inc served on 3/22/2021, answer due 4/12/2021. (Attachments: # <u>1</u> Affidavit DSI)(Maxfield, David) (Entered: 03/22/2021)
03/23/2021	<u>i</u> 6	SUMMONS Returned Executed by Mark Fitzhenry. Vivint Inc served on 3/22/2021, answer due 4/12/2021. (Attachments: # <u>1</u> Affidavit Vivint, Inc.)(Maxfield, David) (Entered: 03/23/2021)
05/11/2021	<u>i</u> 7	MOTION for Extension of Time <i>to Respond to Complaint</i> by Vivint Inc. Response to Motion due by 5/25/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.(Devlin, Chadwick) (Entered: 05/11/2021)
05/12/2021	<u>i</u> 8	Amended MOTION for Extension of Time <i>to Respond to Complaint</i> by Vivint Inc. Response to Motion due by 5/26/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.(Devlin, Chadwick) (Entered: 05/12/2021)
05/12/2021	<u>i</u> 9	<b>ORDER granting <u>8</u> Motion for Extension of Time. Defendant Vivint, Inc. shall have until June 11, 2021 to answer or otherwise plead to plaintiff's complaint. Signed by Honorable David C Norton on 5/12/2021.(jbry, )</b> (Entered: 05/12/2021)
05/13/2021	<u>i</u> 11	NOTICE of Voluntary Dismissal by Mark Fitzhenry <i>as to DSI Distributing, Inc., Without Prejudice</i> (Maxfield, David) (Entered: 05/13/2021)
06/11/2021	<u>i</u> 14	MOTION to Dismiss <i>Or In The Alternative, To Stay Or Transfer This Case</i> by Vivint Inc. Response to Motion due by 6/25/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Exhibit 1–Perrong Docket Report, # <u>2</u> Exhibit 2–Perrong Second Amended Complaint, # <u>3</u> Exhibit 3–Perrong Third Amended Scheduling Order)No proposed order.(Thomas, Carmen) (Entered: 06/11/2021)
06/11/2021	<u>i</u> 15	MOTION to Stay by Vivint Inc. Response to Motion due by 6/25/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.(Thomas, Carmen) (Entered: 06/11/2021)
06/22/2021	<u>i</u> 16	MOTION to Appear Pro Hac Vice by Melanie J. Vartabedian ( Filing fee \$ 350 receipt number 0420–9918869) by Vivint Inc. Response to Motion due by 7/6/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Supporting Documents Application/Affidavit for Pro Hac Vice Admission–Vartabedian)Proposed order is being emailed to chambers with copy to opposing counsel.(Devlin, Chadwick) (Entered: 06/22/2021)
06/23/2021	<u>i</u> 17	<b>ORDER granting <u>16</u> Motion by Melanie J. Vartabedian to Appear Pro Hac Vice. Signed by Honorable David C Norton on 6/23/2021.(jbry, )</b> (Entered: 06/23/2021)
06/24/2021	<u>i</u> 18	AMENDED COMPLAINT against John Doe Corporation, Vivint Inc, RS&I, Inc., filed by Mark Fitzhenry. Service due by 9/22/2021 (Maxfield, David) Modified on 7/23/2021 to reference Additional Attachments <u>29</u> (rshu, ). (Entered: 06/24/2021)
06/25/2021	<u>i</u> 19	MOTION to Appear Pro Hac Vice by Anthony I. Paronich ( Filing fee \$ 350 receipt number 0420–9926278) by Mark Fitzhenry. Response to Motion due by 7/9/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Affidavit Anthony Ilo Paronich, # <u>2</u> Exhibit Certificate of Good Standing, Paronich, # <u>3</u> Proposed Order)Proposed order is being emailed to chambers with copy to opposing counsel.(Maxfield, David) (Entered: 06/25/2021)

06/28/2021	<u>20</u>	<b>ORDER granting <u>19</u> Motion by Anthony I. Paronich to Appear Pro Hac Vice. Signed by Honorable David C Norton on 6/28/2021.(jbry, )</b> (Entered: 06/28/2021)
06/30/2021	<u>21</u>	MOTION to Appear Pro Hac Vice by Jenny N. Perkins ( Filing fee \$ 350 receipt number 0420-9934206) by Vivint Inc. Response to Motion due by 7/14/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Exhibit A—Application and Affidavit, # <u>2</u> Exhibit B—Proposed Order for Pro Hac Vice Admission)Proposed order is being emailed to chambers with copy to opposing counsel.(Devlin, Chadwick) (Entered: 06/30/2021)
07/01/2021	<u>22</u>	<b>ORDER granting <u>21</u> Motion by Jenny N. Perkins to Appear Pro Hac Vice. Signed by Honorable David C Norton on 7/1/2021.(jbry, )</b> (Entered: 07/01/2021)
07/07/2021	<u>23</u>	MOTION to Dismiss <i>the First Amended Complaint, or in the Alternative, to Stay or Transfer this Case</i> by Vivint Inc. Response to Motion due by 7/21/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Exhibit 1 -- Redline Comparison of Original Complaint and First Amended Complaint, # <u>2</u> Exhibit 2 -- Perrong Docket Report, # <u>3</u> Exhibit 3 -- Perrong Second Amended Complaint, # <u>4</u> Exhibit 4 -- Perrong Fourth Amended Scheduling Order, # <u>5</u> Exhibit 5 -- Perrong – Cunningham Deposition Transcript Excerpt)No proposed order.(Devlin, Chadwick) (Entered: 07/07/2021)
07/07/2021	<u>24</u>	MOTION to Stay <i>the Proceeding</i> by Vivint Inc. Response to Motion due by 7/21/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.(Devlin, Chadwick) (Entered: 07/07/2021)
07/16/2021	<u>26</u>	NOTICE of Hearing: Telephone Conference re: <u>23</u> Motion to Dismiss and <u>24</u> Motion to Stay set for 8/19/2021 11:00 AM before Honorable David C Norton. Call-in instructions will be distributed at a later date. (hcor, ) (Entered: 07/16/2021)
07/21/2021	<u>27</u>	RESPONSE in Opposition re <u>23</u> MOTION to Dismiss <i>the First Amended Complaint, or in the Alternative, to Stay or Transfer this Case</i> Response filed by Mark Fitzhenry. Reply to Response to Motion due by 7/28/2021 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Exhibit 1. Vivint's Supplemental Response to Interrogatory No. 2, # <u>2</u> Exhibit 2. Declaration of Anthony Paronich, # <u>3</u> Exhibit 3. DOJ Chart of National Telecommunications Call Detail Retention Policies)(Maxfield, David) (Entered: 07/21/2021)
07/21/2021	<u>28</u>	RESPONSE in Opposition re <u>24</u> MOTION to Stay <i>the Proceeding</i> Response filed by Mark Fitzhenry. Reply to Response to Motion due by 7/28/2021 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Maxfield, David) (Entered: 07/21/2021)
07/21/2021	<u>29</u>	Additional Attachments to Main Document <u>18</u> Amended Complaint. First attachment description: Summons, RS&I, Inc. . (Maxfield, David) (Entered: 07/21/2021)
07/28/2021	<u>30</u>	REPLY to Response to Motion re <u>23</u> MOTION to Dismiss <i>the First Amended Complaint, or in the Alternative, to Stay or Transfer this Case</i> Response filed by Vivint Inc. (Attachments: # <u>1</u> Exhibit Perrong docket, # <u>2</u> Exhibit Declaration of Melanie Vartabedian)(Thomas, Carmen) (Entered: 07/28/2021)
08/19/2021	<u>31</u>	<b>Minute Entry. Proceedings held before Honorable David C Norton: Motion/Telephone Hearing held on 8/19/2021 re <u>24</u> MOTION to Stay <i>the Proceeding</i> filed by Vivint Inc, <u>23</u> MOTION to Dismiss <i>the First Amended Complaint, or in the Alternative, to Stay or Transfer this Case</i> filed by Vivint Inc. All parties represented on the call. The Court will issue an order. Court Reporter Lisa Smith. (cmur, )</b> (Entered: 08/19/2021)
08/20/2021	<u>32</u>	<b>ORDER granting <u>23</u> Motion to transfer. Case is transferred to the District of Utah. Signed by Honorable David C Norton on 8/20/2021.(cmur, )</b> (Entered: 08/20/2021)